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RECEIVED and FILED by the
NEW JERSEY STATE BOARD OF
VETERINARY MEDICAL EXAMINERS
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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF VETERINARY MEDICAL EXAMINERS

In the Matter of

MARJORIE L. O'NEILL, D.V.M.

License Number: 29VI00321200

To Practice Veterinary Medicine
in the State of New Jersey

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Administrative Action

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**PROVISIONAL ORDER
OF DISCIPLINE**

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This matter was opened to the New Jersey Board of
Veterinary Medical Examiners (hereinafter the "Board") on information
received which the Board has reviewed and on which the following
preliminary findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Respondent Marjorie L. O'Neill, D.V.M., was initially
licensed as a veterinarian in this State in December 1991 and has
been a licensee at all times relevant hereto.

*Done
APWSB*

2. N.J.S.A. 45:16-9.9 authorizes the Board to promulgate rules and regulations to promote the safety, protection and welfare of the public and to effectuate the purposes of the Veterinary Practice Act, N.J.S.A. 45:16-1 et. seq.

3. The Board reviewed a consumer complaint filed against the respondent by C.B. This complaint alleged that Dr. O'Neill engaged in negligence in her care and treatment of a stray kitten, "Blackie." The Board's review of this matter revealed that C.B.'s son presented Blackie to Central Jersey Veterinary Emergency Service ("Hospital") on April 18, 2010. The cat was already admitted to the Hospital when Dr. O'Neill came on duty later that evening. The respondent monitored Blackie during the night and tests were conducted. Dr. O'Neill noted the cat's condition was deteriorating and that she was displaying signs of neurological deficiencies. The respondent advised Ms. B.'s son of the possibility of rabies and recommended euthanasia and subsequent rabies testing. She maintained that the son adamantly rejected her recommendations and insisted that she continue treatment and observation. [Exhibit A].

4. Ultimately, Dr. O'Neill discharged Blackie to the son in a cardboard carrier for transport with instructions that the cat may have rabies and to refrain from opening the carrier or handling the cat. The son indicated that he was taking Blackie to the local Police department for resolution. [Exhibit A].

5. Statutes and regulations detail the process of reporting of suspected cases of rabies. N.J.S.A. 26:4-78 requires

that any " . . . person in charge of the animal . . . shall forthwith notify the local board [of health]." Additionally, the Department of Health and Senior Services has promulgated several regulations regarding this issue. N.J.A.C. 8:23-1.1, entitled "Reporting of cases of rabies in animals," provides that

- (a) Persons, **including veterinarians** and animal control officers, having in their possession, care or control, owning or having an interest in or knowledge of, an animal affected with rabies **or suspected of being affected with rabies**, shall provide forthwith a report containing the fact of the animal being affected with or suspected of being affected with rabies to the person designated to receive such reports by the local health agency . . . [N.J.A.C. 8:23-1.2(a); emphasis added].

Additionally, N.J.A.C. 8:57-1.8 specifically states that

- (a) **A veterinarian**, certified animal control officer or manager of an animal facility **shall** report an animal affected with rabies **or suspected of being affected with rabies** in the manner set forth in N.J.A.C. 8:23-1.2. [N.J.A.C. 8:57-1.8(b); emphasis added].

At no time did Dr. O'Neill report Blackie's suspected case of rabies to health officials. [Exhibit B].

CONCLUSIONS OF LAW

1. The Board provisionally finds that the respondent Marjorie L. O'Neill, D.V.M., violated or failed to comply with the provisions of statutes and regulations administered by the Board, in

violation of N.J.S.A. 45:1-21(h), in that she failed to properly handle and report a suspected rabies case.

2. The Board also provisionally finds that Dr. O'Neill's conduct of failing to report a suspected case of rabies and releasing an animal suspected of being affected with rabies to a consumer constitutes professional misconduct, contrary to N.J.S.A. 45:1-21(e). The Board finds that the facts as detailed above establish a violation of N.J.S.A. 45:1-21(e) and (h) and therefore provide a basis for disciplinary action.

ACCORDINGLY IT IS, on this 28th day of MAY 2011

ORDERED that:

1. The respondent Marjorie L. O'Neill, D.V.M., is hereby provisionally reprimanded for her conduct as described above, in violation of N.J.S.A. 45:1-21(e) and (h).

2. Respondent shall provisionally cease and desist from further violations of N.J.S.A. 45:1-21(e) and (h).

3. Dr. O'Neill shall provisionally pay a civil penalty in the amount of **\$1,500.00** for the violations found herein. Payment for the civil penalty shall be submitted be made contemporaneously with the signing of this Order, by certified check or money order, made payable to the State Board of Veterinary Medical Examiners and shall be forwarded to Francine Widrich, Acting Executive Director, Board of Veterinary Medical Examiners, 124 Halsey Street, Sixth Floor, Post Office Box 45020, Newark, New Jersey 07101. Subsequent

violations will subject respondent to enhanced penalties subject to N.J.S.A. 45:1-25.

4. This Order shall become final at 5:00 p.m. on the 30th business day following its entry unless respondent requests a modification or dismissal of the above stated Findings of Fact or Conclusions of Law by:

a) Submitting a written request for modification or dismissal to Francine Widrich, Acting Executive Director, State Board of Veterinary Medical Examiners, Post Office Box 45020, 124 Halsey Street, Sixth Floor, Newark, New Jersey, 07101.

b) Setting forth in writing any and all reasons why the findings and conclusions should be modified or dismissed.

c) Submitting any and all documents or other written evidence supporting respondent's request for consideration and the reasons for such consideration.

3. In the event that respondent's submissions establish a need for further proceedings, including, but not limited to, an evidentiary hearing, respondent shall be notified. If an evidentiary hearing is ordered, the preliminary findings of fact and conclusion of law set forth in this Provisional Order shall serve as notice of the factual and legal allegations in such proceeding. Nothing in this Order shall prevent the Board from considering respondent's arguments on the papers. If the Board is not persuaded that the submitted materials merit further consideration, the order shall become final and respondent will be so notified.

NEW JERSEY STATE BOARD
OF VETERINARY MEDICAL EXAMINERS

By: Mark W. Logan VMD
MARK W. LOGAN, V.M.D.
President